

## ***MEMORANDUM OF UNDERSTANDING***

### **PARTIES:**

The Parties to this Memorandum of Understanding (“MOU” or “Agreement”) are Lenape Entertainment, LLC, (hereinafter “Lenape”), a tribally-chartered company wholly owned by the Delaware Nation, a federally-recognized Indian Tribe; the Town of Hinton, Oklahoma, (hereinafter “Hinton”); and the Hinton Public Works Authority (“HPWA”).

### **RECITALS:**

1. The Delaware Nation owns 20 acres of trust property located within the boundaries of the Town of Hinton. Such property is held in trust by the United States of America for the Delaware Nation and is within “Indian Country” and not within the jurisdiction of the State of Oklahoma. In turn, the Delaware Nation, through its Executive Committee, has delegated the use of the 20-acre trust property and the adjoining 89 acres MOL that it recently acquired to its entertainment company, Lenape, for the purposes of economic development by Resolution 2011-151.
2. Lenape will require water, wastewater, and fire protection services in order to operate said economic development projects.
3. The governing body of the Town of Hinton is the Town Board of Trustees. Fire protection for the citizens of the Town of Hinton is provided by the Hinton Volunteer Fire Department (“HVFD”). Police protection is provided by the Hinton Police Department (“HPD”). Water, garbage and sewer services are provided to the citizens of the Town of Hinton by the Hinton Public Works Authority (“HPWA”), a public trust formed under the laws of the State of Oklahoma for the benefit of the Town of Hinton.
4. Lenape is constructing a large gaming facility on the 20 acre parcel and plans to expand other economic development on the adjoining 89 acres. The gaming floor within the gaming facility spans approximately 21,000 square feet. The gaming facility will operate twenty-four (24) hours per day, seven (7) days per week. Lenape expects up to 3,000 patrons will flow through the gaming facility every day.
5. Lenape will provide private security on its premises but acknowledges that the Hinton Police Department will employees and patrons of Lenape’s gaming facility and that

HPD will be called upon to investigate any criminal complaint or report received from a non-Native American person while on Lenape's premises.

6. Lenape's premises are located southeast of the intersection of Interstate 40 and State Highway 281 and northeast of the intersection of Cummins Road and State Highway 281. The Parties recognize that Highway 281 is severely congested and that travel in the area is complicated and dangerous, even prior to the opening of Lenape's gaming facility. The Oklahoma Department of Transportation ("ODOT") has authorized the placement of at least three (3) traffic signals in the area to address these issues. The cost of the three (3) traffic signals is estimated to be \$300,000.00.

7. Lenape assures Hinton that the Town of Hinton will derive substantial economic benefit from the opening of the gaming facility, including but not limited to the addition of approximately 200 jobs in the Hinton area.

8. The Parties acknowledge that, with the exception of the gaming facility described herein, Lenape's plans for development of its 109 acre (more or less), parcel is as yet undetermined. Because the impact of such future development on the infrastructure and services provided by Hinton and HPWA cannot now be evaluated, this MOU addresses and applies only to Lenape's gaming facility described herein. The parties anticipate that an additional MOU or other appropriate document will be negotiated in good faith as Lenape's plans for future development are solidified.

9. The Parties further acknowledge and agree that a healthy and progressive school system is one of the greatest assets of any community and that the protection and improvement of the school system is of utmost importance. Lenape recognizes that transfer into trust of the 20 acre tract on which Lenape's gaming facility is located removed said property from the Caddo County tax rolls and thereby deprives the Hinton Public School system of ad valorem tax which would otherwise be due in connection with the property.

AGREEMENT:

1) Authority. The Parties have the authority to enter into this MOU and agree that no permission of any other entity is needed in order to execute this MOU, nor is this MOU in contravention of any law or other enforceable agreement of any kind.

2) Fire Protection. Hinton will extend fire protection to Lenape's gaming facility by way of the Hinton Volunteer Fire Department in the same manner and at the same rate as local commercial properties in and near the Town receiving such services. Lenape expressly recognizes that HVFD is "volunteer" only and HVFD makes no promises or guarantees of

services. HVFD will provide emergency protection services to the Lenape gaming facility in accordance with HVFD's policies and procedures and as allowed by law.

3) Police Protection. Lenape has advised the Town that it will not require police protection but will provide private security. Lenape acknowledges, however, that HPD is involved in the enforcement of State and local laws and may be required to respond to calls and investigate alleged crimes within the Lenape gaming facility and on Lenape property. HPD will provide emergency protection services to the Lenape gaming facility in accordance with HPD's policies and procedures and as allowed by law. Lenape and Hinton will cooperate to evaluate the need for cross-deputization or other intergovernmental agreements among law enforcement personnel. HPD will report to Lenape at least quarterly, with its first report delivered on or about October 10, 2012, regarding every visit to or investigation conducted on Lenape's property. Lenape agrees to pay HPD \$500.00 per visit, investigation or report, as determined at the discretion of the Chief of Police and as per the invoice issued by HPD to Lenape. Said invoice shall be issued by HPD on or before June 30 of each year and paid by Lenape within thirty (30) days of issuance.

4) Ambulance Service. Ambulance and emergency medical services within Hinton and the nearby areas are provided by the Sugar Creek Ambulance Service ("SCAS"), an entity not associated with the Town of Hinton. At the time of this Agreement, Hinton supports SCAS by providing headquarters in Hinton's fire station and via payment of a monthly stipend to SCAS. Hinton intends to continue providing the same or similar support so that an emergency medical services are readily available to the citizens of Hinton and surrounding areas, including Lenape's gaming facility. Lenape recognizes, however, that Hinton does not own or control SCAS and cannot guarantee that such service will continue indefinitely or will continue at a certain level. Lenape recognizes the importance of speedy and reliable emergency medical services and agrees to cooperate in attempting to address any future needs of SCAS.

5) Water and Sewer Service. HPWA will provide water and sewer utility services to the Lenape gaming facility at the same rate and under the same conditions as the same services are provided to others similarly situated. Lenape agrees to pay for such services. Lenape acknowledges that, should Lenape fail to remit payment on or before the date payment is due, HPWA will be entitled to terminate said services. HPWA agrees that, as long as Lenape pays all amounts due in connection with water and sewer utility services and the Parties are working together in good faith, HPWA will continue to provide water and sewer utility services to the Lenape gaming facility even after the expiration or non-renewal of this Agreement.

6) Traffic Signals. Lenape acknowledges and agrees that the traffic signals approved by ODOT to be installed on Highway 281 will directly benefit the Lenape gaming facility and the safety of its patrons. Lenape agrees to pay HPWA one-third (1/3) of the cost to the Town or HPWA, estimated to be approximately \$20,000.00, to assist with the expense of installation and maintenance of said traffic signals. Lenape will make such payment to HPWA within thirty (30) days of ODOT's preconstruction meeting or, if ODOT does not schedule a preconstruction (or similar) meeting, other mutually-agreeable event..

7) Consideration to the Town. In recognition of the support, both tangible and intangible, provided to Lenape by the Town and HPWA, and of the fact that Lenape's gaming facility will generate millions of dollars in income from which the Town of Hinton will receive no tax benefit, Lenape will make an annual payment of \$25,000.00 to Hinton. Such payment shall be made on or before June 30 of each year with the first payment being made on or before June 30, 2013.

8) Hinton Public Schools. Lenape agrees to work with Hinton Public Schools to address economic needs of the School system and assist the School in addressing such needs and improving services to the community and students. Lenape commits to contribute to projects and needs of the School in good faith and as it is reasonably able to do so.

9) Infrastructure Expansion and Improvement. The Parties acknowledge there exists a need for expansion and improvement of the Town/HPWA's infrastructure, including sewage lagoon capacity. The Town and/or HPWA commit to investigate and develop a plan for expansion of the sewage lagoon system which services Lenape's Property and Lenape agrees to cooperate in development of such plan and in obtaining funding for same.

10) Enforcement; Limited Waiver of Immunity. Should it become necessary to seek the assistance of a court of law in the interpretation or enforcement of this Agreement, the Parties agree to submit to the jurisdiction and authority of the District Court of Caddo County, Oklahoma for such purposes. Lenape expressly foregoes and waives any claim that the exhaustion of any tribal court proceeding is or will be a necessary prerequisite to the initiation of legal action in Caddo County District Court and agrees that sovereign immunity is waived only as expressed herein. This provision relates only to any sovereign immunity which Lenape would otherwise be entitled to claim and is not intended to affect, limit or waive the sovereign immunity of the Delaware Nation.

11) Complete Agreement. This document shall be binding on the Parties hereto and supercedes any other discussions or agreements relating to the subjects addressed herein.

12) Third Party Beneficiaries; Reliance. With the exception of the Hinton Public Schools, no third party is entitled to claim any benefit by way of or in relation to the agreements or statements made herein. With the exception of the Hinton Public Schools, no third party may justifiably rely on any statement or agreement made herein.

13) Modification. Any modification to this Agreement shall be in writing, signed by an authorized representative of each of the Parties.

14) Expiration. This agreement shall be in full force and effect until June 30, 2014. The Parties agree to negotiate in good faith to renew said agreement prior to its expiration.

Dated: July 25, 2012.

Lenape Entertainment, LLC

Ann Brower

By: Ann Brower

Its: Chair

Address for Notices:

P.O. Box 825

Anadarko, OK 73005

Town of Hinton

Kenny Horn Horn

Kenny Horn, Mayor

[SEAL]

Attest:

Charles H. Jaques  
Charles Jaques, Town Clerk

Hinton Public Works Authority

Kenny Horn HWA July  
Kenny Horn, Chair

[SEAL]

Attest:

Charles Jaques, Town Clerk

7/24/12 Mtz -